

## **TITLE 12. MILITARY AND VETERANS AFFAIRS**

(Notice published April 4, 2003)

### **NOTICE OF PROPOSED ACTION**

The California Department of Veterans Affairs ("Department") proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

#### **PUBLIC HEARING**

The Department will hold a public hearing starting at **9:00 a.m. on May 28, 2003**, in Grant Hall located in the Recreation Building at the Veterans Home of California - Yountville, 110 California Drive, Yountville, California. Grant Hall is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

#### **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes at **5 p.m. on Monday, May 19, 2003**. The Department will consider only comments received at the Department Headquarters' offices by that time. Submit comments to: John H. McCardle, Staff Counsel, 1227 "O" Street, Suite 306, Sacramento, California 95814.

#### **AUTHORITY AND REFERENCES**

The authority and reference is Military and Veterans Code, Division 5, Chapter 1, section 1035.6. Military and Veterans Code section 1035.6 requires the Department to "promulgate regulations specifying the costs that are in excess of the member contribution fee and constitute the unreimbursed cost of care."

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Senate Bill 1281, approved and filed on September 11, 2002, adds sections 1035.6 and 1035.7 to the Military and Veterans Code. Military and Veterans Code section 1035.6(b) requires the Department to "promulgate regulations specifying the costs that are in excess of the member contribution fee and constitute the unreimbursed cost of care."

The Department proposes to add sections 506 and 507 to Title 12 of the California Code of Regulations (CCR). These sections will specify the costs that are in excess of the member contribution fee and constitute the unreimbursed cost of care by establishing the basis upon which unreimbursed cost of care is calculated.

It has long been the practice of the Department to calculate a deceased resident's unreimbursed cost of care by reducing the total charges (debits), against a resident's account, by the credits for amounts received on the resident's behalf.

Total charges against a resident's account include a per-diem charge based on a member's level of care and admission status for all services provided by the home; actual medical costs rendered to the member that are paid to contracted or non-contracted medical providers by the home; and any co-payments or deductibles paid by the home for treatment covered under the member's medical insurance. The sum of these charges total the "member account cost items" under the proposed regulations.

There are generally three sources of funds by which the cost of a Veteran's stay in a California Veterans Home are paid: Member fees as prescribed by Military and Veterans Code section 1012.3; various veterans benefits (e.g., aid and attendance payments and USDVA per diem) as provided in Title 38 of the United States Code; and other governmental benefits provided to offset the cost of health care (e.g., Medi-Cal and Medicare). The total of these items are used to offset the member account cost items to calculate the unreimbursed cost of care.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

*The Department has made the following initial determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government code sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The Agency is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within California; or
- (3) Affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Effect on small businesses: None. This regulation does not affect small businesses. This regulation only affects veterans living in the Veterans Homes of California.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

## CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Fred Chow, Chief of Management Services  
California Department of Veterans Affairs  
1227 "O" Street  
Sacramento, CA 95814  
Telephone: (916) 653-0603

The backup contact person for these inquiries is:

John H. McCardle, Staff Counsel  
California Department of Veterans Affairs  
1227 "O" Street, Suite 306  
Sacramento, CA 95814  
Telephone: (916) 653-1406

Questions on the substance of the proposed regulations may be directed to either Mr. McCardle or Mr. Chow.

Please direct requests for copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or the information upon which the rulemaking is based to Mr. Chow at the above address.

## AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Mr. Chow at the address or phone number listed above.

## AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Fred Chow at the address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

## AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Mr. Chow at the above address.

## AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations, in underline and strikeout, can be accessed through our website at [www.CDVA.CA.Gov](http://www.CDVA.CA.Gov).

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